

AMENDED IN SENATE MARCH 27, 2006

SENATE BILL

No. 1495

Introduced by Senator Battin

February 23, 2006

An act to ~~add Section 273i~~ *amend Section 530.5* of the Penal Code, relating to ~~child abuse~~ *identity theft*.

LEGISLATIVE COUNSEL'S DIGEST

SB 1495, as amended, Battin. ~~Child abuse~~ *Identity theft*: financial crimes.

Existing law makes it a crime to *willfully obtain and use* the personal identifying information of another person for unlawful purposes, without the consent of the victim, *punishable by a fine not to exceed \$1,000, imprisonment in a county jail not to exceed one year, or both that fine and imprisonment, or by a fine not to exceed \$10,000, imprisonment in the state prison for 16 months or 2 or 3 years, or both that fine and imprisonment.*

This bill would ~~make it a crime for a parent or guardian of a minor child to use the minor child's personal identifying information for unlawful purposes~~ *provide that it is a crime punishable by a fine not to exceed \$1,000, imprisonment in a county jail not to exceed one year, or both, or by a fine not to exceed \$10,000, imprisonment in the state prison for 2, 3, or 4 years, or both to willfully obtain the personal identifying information of another person who is less than 18 years of age if the victim's age was known, or should have been known to that person, and to use that information for unlawful purposes without the consent of the victim.*

Because this bill would create a new crime, it would impose a state mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 530.5 of the Penal Code is amended to
2 read:

3 530.5. (a) Every person who willfully obtains personal
4 identifying information, as defined in subdivision (b), of another
5 person, and uses that information for any unlawful purpose,
6 including to obtain, or attempt to obtain, credit, goods, services,
7 or medical information in the name of the other person without
8 the consent of that person, is guilty of a public offense, and upon
9 conviction therefor, shall be punished either by imprisonment in
10 a county jail not to exceed one year, a fine not to exceed one
11 thousand dollars (\$1,000), or both that imprisonment and fine, or
12 by imprisonment in the state prison, a fine not to exceed ten
13 thousand dollars (\$10,000), or both that imprisonment and fine.

14 (b) "Personal identifying information," as used in this section,
15 means the name, address, telephone number, health insurance
16 identification number, taxpayer identification number, school
17 identification number, state or federal driver's license number, or
18 identification number, social security number, place of
19 employment, employee identification number, mother's maiden
20 name, demand deposit account number, savings account number,
21 checking account number, PIN (personal identification number)
22 or password, alien registration number, government passport
23 number, date of birth, unique biometric data including
24 fingerprint, facial scan identifiers, voiceprint, retina or iris image,
25 or other unique physical representation, unique electronic data
26 including identification number, address, or routing code,
27 telecommunication identifying information or access device,
28 information contained in a birth or death certificate, or credit card
29 number of a person, or an equivalent form of identification.

1 (c) ~~In~~ Every person who willfully obtains personal identifying
2 information, as defined in subdivision (b), of another person who
3 is less than 18 years of age if the victim's age was known, or
4 should have been known to that person, and uses that
5 information for any unlawful purpose, including to obtain, or
6 attempt to obtain, credit, goods, services, or medical information
7 in the name of the other person without the consent of that
8 person, is guilty of a public offense, and upon conviction
9 therefor, shall be punished either by imprisonment in a county
10 jail not to exceed one year, a fine not to exceed one thousand
11 dollars (\$1,000), or both that imprisonment and fine, or by
12 imprisonment in the state prison for two, three or four years, a
13 fine not to exceed ten thousand dollars (\$10,000), or both that
14 imprisonment and fine.

15 (d) In any case in which a person willfully obtains personal
16 identifying information of another person, uses that information
17 to commit a crime in addition to a violation of subdivision (a),
18 and is convicted of that crime, the court records shall reflect that
19 the person whose identity was falsely used to commit the crime
20 did not commit the crime.

21 ~~(d)~~

22 (e) Every person who, with the intent to defraud, acquires,
23 transfers, or retains possession of the personal identifying
24 information, as defined in subdivision (b), of another person is
25 guilty of a public offense, and upon conviction therefor, shall be
26 punished by imprisonment in a county jail not to exceed one
27 year, or a fine not to exceed one thousand dollars (\$1,000), or by
28 both that imprisonment and fine.

29 ~~(e)~~

30 (f) Every person who, with the intent to defraud, acquires,
31 transfers, or retains possession of the personal identifying
32 information, as defined in subdivision (b), of another person who
33 is deployed to a location outside of the state is guilty of a public
34 offense, and upon conviction therefor, shall be punished by
35 imprisonment in a county jail not to exceed one year, or a fine
36 not to exceed one thousand five hundred dollars (\$1,500), or by
37 both that imprisonment and fine.

38 ~~(f)~~

39 (g) For purposes of this section, "deployed" means that the
40 person has been ordered to serve temporary military duty during

1 a period when a presidential executive order specifies that the
2 United States is engaged in combat or homeland defense and he
3 or she is either a member of the armed forces, or is a member of
4 the armed forces reserve or the National Guard, who has been
5 called to active duty or active service. It does not include
6 temporary duty for the sole purpose of training or processing or a
7 permanent change of station.

8 ~~(g)~~

9 (h) For purposes of this section, “person” means a natural
10 person, firm, association, organization, partnership, business
11 trust, company, corporation, limited liability company, or public
12 entity.

13 ~~SECTION 1. Section 273i is added to the Penal Code, to~~
14 ~~read:~~

15 ~~273i. (a) Any parent or guardian of a minor child who uses~~
16 ~~personal identifying information of the minor child for unlawful~~
17 ~~purposes is guilty of a crime punishable by imprisonment in the~~
18 ~~county jail not to exceed one year, or in the state prison, or by a~~
19 ~~fine not to exceed ten thousand dollars (\$10,000), or by both fine~~
20 ~~and imprisonment.~~

21 ~~(b) “Personal identifying information,” as used in this section,~~
22 ~~means the name, address, telephone number, driver’s license~~
23 ~~number, social security number, place of employment, employee~~
24 ~~identification number, savings account number, or credit card~~
25 ~~number of the minor child.~~

26 SEC. 2. No reimbursement is required by this act pursuant to
27 Section 6 of Article XIII B of the California Constitution because
28 the only costs that may be incurred by a local agency or school
29 district will be incurred because this act creates a new crime or
30 infraction, eliminates a crime or infraction, or changes the
31 penalty for a crime or infraction, within the meaning of Section
32 17556 of the Government Code, or changes the definition of a
33 crime within the meaning of Section 6 of Article XIII B of the
34 California Constitution.